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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,319	01/04/2006	Caroline Jacobson	2380-944	8422
23117	7590	06/02/2010	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			DOAN, PHUOC HUU	
			ART UNIT	PAPER NUMBER
			2617	
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			06/02/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/563,319	JACOBSON, CAROLINE	
	<b>Examiner</b>	<b>Art Unit</b>	
	PHUOC DOAN	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 01 April 2010.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by **SCHWARZ (US Pub. No.: 2007/0264994)**.

**As to claim 1**, SCHWARZ discloses a first cellular mobile communication network “Fig. 2B, items 12 UTRAN” providing communication services to one or more user equipments (Fig. 2B, items 10 UE), the network comprising: in a network unit configured to control (par [0022]) “universal terrestrial radio access network (UTRAN) 12, and a radio

network controller (RNC) 14) a user equipment (par [0021-0022] “ RNC 14 controlled by determines from the RRC connection request in response to UE 10”), the network unit providing means for including an information element within a communication message to said user equipments to indicate the availability status of at least a range of services that are provided by said first communication network (par [0021-0025] “the RNC 14 determines, in response to the UE based on the condition such as service delay, quality of service provided to UE whether to operate in network UTRAN 12 or in another network”).

**As to claim 2**, SCHWARZ further discloses the network according to claim 1, wherein said network unit comprises means for re-directing a user equipment to a second communication network (par [0022] “RNC 14 transmits to the UE a message which indicates that the UE is redirection to another network 20”), which is accessible for the user equipment (par [0022]), if said user equipment is using or intends to use a service that is temporarily not available in said first communication network (par [0022-0023] “note: a service that is temporarily not available can be takes into consideration load or other condition in the first network (UTRAN) 12 such as service delay, quality of service, bit rate”).

**As to claim 3**, SCHWARZ further discloses the network according to claim 2, wherein said means for re-directing a user equipment compose a redirection retry information element in the RRC Connection Release message including at least the same information as a RRC Connection Setup Reject message (par [0022] “ UTRAN or a RRC connection rejection message with redirection information to another network 20”).

**As to claim 4**, SCHWARZ further discloses the network according to claim 2, wherein said means for re-directing are equipped to receive information regarding the priority of a requested service by the user equipment (par [0022, 0025] “note the priority of a requested service by the user equipment where the RNC network 14 consideration conditions such as service delay, quality of service then redirection to the other network 20, in response to the indicated capability of the UE”).

**As to claim 5**, SCHWARZ further discloses the network according to claim 4, wherein said means for re-directing are not operable if the requested service has an assigned lower priority than an already ongoing service of said user equipment on said first communication network (par [0022, 0024-0025] “the RNC 14 determines, in response to the UE based on the condition such as service delay, quality of service provided to UE whether to operate in network UTRAN 12 or in another network”).

**As to claim 6**, SCHWARZ further discloses the network according to claim 1, wherein said means are equipped to be operable on detecting a service unavailability due to a network fault (par [0022, 0025]" note: unavailability due to a network fault can be determine under condition of transfer delays and error rate, and for reasons such as uplink and downlink capacity").

**As to claim 7**, SCHWARZ further discloses the network according to claim 1, wherein said means are equipped to be operable on detecting a service unavailability due to a temporary congestion situation in the first communication network (par [0022, 0025] "note: unavailability due to a temporary congestion situation can be determine under condition of transfer delays, error rate, uplink and downlink capacity").

**As to claim 8**, SCHWARZ discloses a method in a first cellular mobile communication network "Fig. 2B, items 12 UTRAN" when releasing a connection of a user equipment "Fig. 2B, item 10 UE" to a second cellular mobile communication network "Fig. 2B, item 20 other network" (par [0022] " RNC 14 transmits to the UE a message which indicates that the UE is redirection to a second cellular mobile communication network 20"), the method comprising: determining that a service utilized by the connection is at least temporarily unavailable (par [0022, 0025] "note: unavailability due

to a temporary congestion situation can be determine under condition of transfer delays, error rate, uplink and downlink capacity"); and in response thereto including in a RRC Connection Release message an information element comprising a re-direction retry message to redirect the user equipment to the second cellular mobile communication network (par [0022, 0025]); transmitting the RRC Connection Release message comprising the re-direction retry message to the user equipment (par [0022]), and thereafter releasing said connection (See par [0022-0023] " UTRAN or a RRC connection rejection message with redirection information to second network 20").

**As to claim 9**, SCHWARZ discloses a user equipment "Fig. 2B, items 10 UE" in a first cellular mobile communication network (Fig. 2B, items 12 UTRAN), the user equipment comprising: means for retrieving information about the availability status of at least a range of services that are provided by said first communication network (par [0021-0022, 0025] "the RNC 14 determines, in response to the indicated capability of the UE whether to operate in the first network and/or other conditions such as service delay, quality of service, bit rate, or requested content to be provided to the UE 10") , means for indicting to said first communication network the priority of a requested service (par [0022, 0025] "note: the priority of a requested

service by the user equipment where the RNC network 14 consideration conditions such as service delay, quality of service then redirection to the second network 20, in response to the indicated capability of the UE").

**As to claim 10**, SCHWARZ further discloses the user equipment according to claim 9, whereby the user equipment comprises means for accessing services that are available in the first communication network by using the facilities of said first communication network and comprises means for accessing network services (par [0021-0025] "the RNC 14 determines, in response to the UE based on the condition such as service delay, quality of service provided to UE whether to operate in network UTRAN 12 or in another network") , which have been indicated to be at least temporarily not available in the first communication network (par [0022]), by using the facilities of a second communication network (par [0022-0023] "note: a service that is temporarily not available can be takes into consideration load or other condition in the first network (UTRAN) 12 such as service delay, quality of service, bit rate, and provided to UE whether to second network 20 with the included information being used").

**As to claim 11**, SCHWARZ further discloses the user equipment according to claim 9 comprising means for indicating its service availability status to the user of said user equipment (par [0021-0022] "the RNC 14

determines from the RRC connection request and specifically, in response to the UE whether to operate in the network”).

**As to claim 12**, SCHWARZ discloses a method of operating a wireless terminal comprising: the wireless terminal requesting or receiving a service from a first communications network (par [0021-0022] “in response to the UE whether to operate in the network”); receiving, in certain time periods from the first communications network, updated availability information regarding the service from a first communications network (par [0022-0023] “note: a service that is temporarily not available can be taken into consideration load or other condition in the first network (UTRAN) 12 such as service delay, quality of service, bit rate, and provided to UE whether to second network 20 with the included information being used”); and the wireless terminal using the availability information to perform a switch to request or receive the service from a second communications network rather than from the first communication network when the availability information from the first communications network indicates that the service is not available from the first communications network (par [0022-0023] “UE are connected to the other network after the message information has set-up”).

**As to claim 13**, SCHWARZ further discloses the method of claim 12, further comprising periodically receiving the service availability information in system information broadcast to plural wireless terminals by the first communications network (par [0022]).

**As to claim 14**, SCHWARZ further discloses the method of claim 12, further comprising periodically receiving the service availability information in a dedicated message sent to the wireless terminal (par [0022]).

**As to claim 15**, SCHWARZ further discloses the method of claim 12, further comprising the wireless terminal indicating to the second communications network a priority level for the service (par [0022, 0025] “note the priority of a requested service by the user equipment where the RNC network 14 consideration conditions such as service delay, quality of service then redirection to the other network 20, in response to the indicated capability of the UE”).

**As to claim 16**, SCHWARZ further discloses the method of claim 12, further comprising obtaining from the updated availability information a reason for service unavailability (par [0020]).

**As to claim 17**, SCHWARZ further discloses the method of claim 12, further comprising obtaining from the updated availability information an estimated time interval for service unavailability (par [0020]).

***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUOC DOAN whose telephone number is (571)272-7920. The examiner can normally be reached on 10:00AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LESTER KINCAID can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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